THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 17921 of 2005

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FRIDAY, THE TWELFTH DAY OF AUGUST
TWO THOUSAND AND FIVE

Between:

Golla Vasumathi W/o. Late Sri Nageswara Rao,
R/o. Mannava Village, Ponnur Mandal, Guntur District,

..... PETITIONER

AND

1 Assistant Commissioner, Endowments Department, Guntur,
2 The Executive Officer, Someswara Swamy Temple, Mannava Village,
Ponnur Mandal, Guntur District,

.....RESPONDENTS

The Court, at the stage of admission, made the following:

Oral order:-

The petitioner's husband was a cultivating tenant of wet-land in an extent of Ac.03-07 cents in survey No. 635 of Mannava village, Ponnur mandal, Guntur district belonging to the Someswara Swamy Temple, Mannava village. The husband of the petitioner died on 11-04-2002 and thereafter the petitioner is the *de-facto* tenant cultivating the lands. Her case is that she is also depositing the rents in favour of the 2nd respondent-Temple, which were accepted by the authorities of the 2nd respondent-Temple.

Earlier, when the 2nd respondent-temple wanted to conduct an auction of the Temple lands for a future lease-hold rights, in the year 2003, the petitioner filed W.P.No. 16849 of 2003 claiming to be a landless poor person. By an order dated 25-08-2003, the writ petition was disposed of directing the petitioner to file an application before the 1st respondent-Assistant Commissioner to determine the status of the petitioner as landless poor and directing the said respondent to dispose of the application and take action in respect of the lands

thereafter.

On 30-08-2003, the petitioner made an application to the 1st respondent claiming to be a landless poor person. Till date, the petitioner contends, the 1st respondent has not seen fit to dispose of the application of the petitioner. The petitioner claims in this writ petition that she is entitled to continue as a cultivating tenant as she is a landless poor person and she is ready to pay 2/3rd market lease amount as per the direction of this court and seeks interdiction of the auction of the lands of the 1st respondent-Temple for future lease hold rights of the Temple lands. The auction of the lands is scheduled on 12-08-2005.

Admittedly, the wet-lands that were cultivated by the petitioner's husband were in an extent of Ac.03-07 cents. It is the same extent that is now proposed for auction in survey No. 635 of Mannava village, Ponnur mandal, Guntur district. Having regard to the extent of wet land involved and under cultivation by the petitioner's husband as an authorized tenant of Temple, even he could not have been held to be a landless poor person within the meaning of expression in the Explanation to Sub-section (2) of Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'). The petitioner is not even a cultivating tenant of the lands in question. It is not the petitioner's case that the tenancy, which was in favour of her husband, is heritable and, therefore, she steps into the shoes of her husband and becomes the cultivating tenant of the Temple lands. The benefits under Section 82 of the Act are available only to cultivating tenants, who are landless poor persons as defined.

On the analysis above, the petitioner is not entitled to any relief claimed in this writ petition; and the auction cannot be interdicted merely on account of the inability or unwillingness of the 1st respondent to dispose of the petitioner's application dated 30-08-2003, however, inexcusable such inaction be. In the aforesaid circumstances, no case is made out for grant of relief. The writ

petition is dismissed. If the petitioner is eligible, she may bid in the auction for the future lease-hold rights. No costs.

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GODA RAGHURAM, J

Dated: 12-08-2005

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